

REMARKS

By this amendment, claims 3 and 18-20 have been amended. Claims 1-20 remain pending in the subject application.

New Matter

The Office Action rejects the inclusion of specified limitations in claims 1 and 6 as new matter. It is respectfully submitted that limitations are disclosed on page 8, lines 20-24, and page 9, lines 1-24, of the specification and in Fig. 4 of the drawings. Specifically, the specification discloses on page 9, lines 12-14, that the electric motor 42 is a standard DC motor and that the operation of the lift is controlled by two switches SW1 and SW2. The specification also discloses on page 9, line 18, that the position switches also control the speed of the electric motor. Therefore, the inclusion of the specified limitations does not introduce new matter.

Rejection of Claims 19 and 20 Under 35 U.S.C. § 112

Claims 19 and 20 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. By this amendment, claims 19 and 20 have been amended to remove the reference to the terminology "control switches". It is respectfully submitted that the subject matters of claims 19 and 20 are disclosed on page 10,

lines 1-14, of the specification. Accordingly, claims 19 and 20 are in compliance with 35 U.S.C. § 112, first paragraph.

Rejection of Claims 1-8 and 10-18 Under 35 U.S.C. § 103

Claims 1-8 and 10-18 are rejected in the Final Office Action under 35 U.S.C. § 103(a) as being unpatentable over the Admitted Prior Art and Lassanske (U.S. Patent No. 4,175,632, herein after referred to as "Lassanske"). This rejection is respectfully traversed.

Figure 1 of the subject application discloses a prior art lift gate that employs complicated hydraulic valve systems to control the speed of the lift gate.

Lassanske discloses a motor driven vehicle with hydraulically controlled variable speed transmission. Specifically in column 5, lines 46-55, and with reference to Fig. 2, Lassanske discloses that the drive ratio of the variable speed "V" belt drive or transmission 21 can be continuously and infinitely varied by controlling the pressure level at the piston cylinder assembly 51 by varying the location of the needle valve member 91 so as thereby to provide speed control, notwithstanding the application of constant voltage to the motor 15. Thus, speed control is available without recourse to resistors or arrangements for differentially connecting a series of batteries to the motor 15 so as to vary the applied potential. In column 5, lines 6-44, Lassanske describes the operation of variable speed "V" belt drive of transmission 21.

It is respectfully submitted that Lassanske discloses a hydraulically controlled variable speed transmission system providing speed control, notwithstanding the application of

constant voltage to the motor. The speed control is available without *recourse to resistors or arrangements for differentially connecting a series of batteries to the motor so as to vary the applied potential.*

Claim 1 calls for, among other things, providing a DC electric motor with control circuitry to adjust the speed of said DC electric motor and thereby the speed of the platform. A combination of this and the other elements specified in claim 1 is neither taught nor suggested by Admitted Prior Art and Lassanske, either singly or in combination. Furthermore, the disclosure of Lassanske, a hydraulically controlled variable speed transmission system providing speed control, notwithstanding the application of constant voltage to the motor, is teaching away from such elements specified in claim 1. Therefore, Admitted Prior Art and Lassanske cannot make claim 1 obvious.

Claims 2-5 depend from claim 1 and are allowable over Admitted Prior Art and Lassanske for at least the same reasons as claim 1.

Claim 6 calls for, among other things, providing a direct current electric motor with variable resistance control circuitry for actuation of a pump and hydraulic apparatus so that speed of motion of said platform is variable. A combination of this and the other elements specified in claim 6 is neither taught nor suggested by Admitted Prior Art and Lassanske, either singly or in combination. Furthermore, the disclosure of Lassanske, a hydraulically controlled variable speed transmission system providing speed control, notwithstanding the application of constant voltage to the motor, is teaching away from such elements specified in

claim 6. Therefore, Admitted Prior Art and Lassanske cannot make claim 6 obvious.

Claim 7 calls for, among other things, a control circuit coupled to said DC motor, said control circuit adjusting a speed of said DC motor to effectuate a variation in a speed of motion of said platform through said hydraulic pump, said hydraulic apparatus, and said lever assembly. A combination of this and the other elements specified in claim 7 is neither taught nor suggested by Admitted Prior Art and Lassanske, either singly or in combination. Furthermore, the disclosure of Lassanske, a hydraulically controlled variable speed transmission system providing speed control, notwithstanding the application of constant voltage to the motor, is teaching away from such elements specified in claim 7. Therefore, Admitted Prior Art and Lassanske cannot make claim 7 obvious.

Claims 8 and 10-18 depend from claim 7 and are allowable over Admitted Prior Art and Lassanske for at least the same reasons as claim 7.

Rejection of Claim 9 Under 35 U.S.C. § 103

Claim 9 is rejected in the Final Office Action under 35 U.S.C. § 103(a) as being unpatentable over the admitted prior art and Lassanske and further in view of Neagu (U.S. Patent No. 4,836,736, herein after referred to as "Neagu"). This rejection is respectfully traversed.

As respectfully pointed out above, claim 7 is allowable over Admitted Prior Art and Lassanske. Neagu discloses a level ride lift gate with ramping action platform. It is respectfully submitted that Neagu does not teach or suggest

any combination of elements specified in claim 7 beyond Admitted Prior Art and Lassanske. Therefore, claim 7 is allowable over Admitted Prior Art and Lassanske and further in view of Neagu.

Claim 9 depends from claim 7 and is allowable over Admitted Prior Art and Lassanske and further in view of Neagu for at least the same reasons as claim 7.

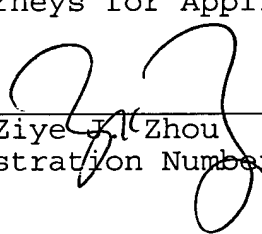
CONCLUSION

In view of above, claims 1-20 currently pending in the subject application are believed to be allowable and the subject application is in condition for allowance. Such action is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees to Manatt, Phelps & Phillips' Deposit Account No. 50-1847 or to credit any overpayment to the same for all matters during the prosecution of the subject application.

Respectfully submitted,

MANATT, PHELPS & PHILLIPS
Attorneys for Applicants


By: Ziyue Zhou
Registration Number 41,423

Date: February 6, 2004

Manatt, Phelps, & Phillips
1001 Page Mill Road, Building 2
Palo Alto, CA 94304
Tel: 650-812-1300



FIRST CLASS CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to Mail Stop: Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450

on February 6, 2004
Date of Deposit

Sheena Hicks

Name of Person Mailing Correspondence

Signature

Date

RECEIVED

FEB 18 2004

GROUP 3600

Serial/Patent No. 09/815,878

Filing/Issue Date: March 22, 2001

Client: Maxon Lift Corporation

Inventor(s): Karapet Ablabutyan et al.

Title: Lift Device with Variable Speed Actuation

MPP File No.: 23451-035

Atty/Secty Initials: ZJZ/sh

Date Mailed: February 6, 2004

Docket Due Date: _____

The following has been received in the U.S. Patent & Trademark Office on the date stamped hereon:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Amendment/Response (<u>11</u> pgs.) | <input type="checkbox"/> Express Mail No. |
| <input type="checkbox"/> Appeal Brief (<u> </u> pgs.) (in triplicate) | <input type="checkbox"/> Issue Fee Transmittal, in Duplicate (<u> </u> pgs.) |
| <input type="checkbox"/> Application - Utility (<u> </u> pgs. with Specification, Claims and Abstract) | <input type="checkbox"/> Notice of Appeal |
| <input type="checkbox"/> Application - Rule 1.53(b) Continuation (<u> </u> pgs.) | <input type="checkbox"/> Petition for Extension of Time |
| <input type="checkbox"/> Application - Rule 1.53(b) Divisional (<u> </u> pgs.) | <input type="checkbox"/> Petition for _____ |
| <input type="checkbox"/> Application - Rule 1.53(b) CIP (<u> </u> pgs.) | <input checked="" type="checkbox"/> Return Receipt Postcard |
| <input type="checkbox"/> Application - RCE Transmittal (<u> </u> pgs.) (in duplicate) | <input type="checkbox"/> Revocation of Power of Attorney (<u> </u> pgs.) |
| <input type="checkbox"/> Application for Design (<u> </u> pgs.) | <input type="checkbox"/> Preliminary Amendment (<u> </u> pgs.) |
| <input type="checkbox"/> Application - PCT (<u> </u> pgs.) | <input type="checkbox"/> Reply Brief (<u> </u> pgs.) |
| <input type="checkbox"/> Application - Provisional (<u> </u> pgs.) | <input type="checkbox"/> Response to Notice of Missing Parts |
| <input type="checkbox"/> Assignment and Cover Sheet | <input checked="" type="checkbox"/> Transmittal Letter, in Duplicate |
| <input checked="" type="checkbox"/> Certificate of Mailing (1 st Class Mail) (<u>1</u> pg.) | <input type="checkbox"/> Fee Transmittal, in Duplicate |
| <input type="checkbox"/> Declaration (<u> </u> pgs.) | <input type="checkbox"/> Check No. <u> </u> in the amount of \$ <u> </u> |
| <input type="checkbox"/> Disclosure Docs & Orig & Copy of Inventor's Signed Letter (<u> </u> pgs.) | |
| <input type="checkbox"/> Drawings: <u> </u> sheets includes <u> </u> figures | |

Other: Patent Application Fee Determination Record Form PTO/SB/06 (in duplicate) (1 pg.):
Change of Correspondence Address